

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

----- In the Matter of the Application of - -) PUC Docket 2008-0273
)
)
PUBLIC UTILITIES COMMISSION)
)
Instituting a Proceeding to)
Investigate the Implementation)
Of Feed-In Tariffs)

LIFE OF THE LAND'S

REPLY BRIEF

&

CERTIFICATE OF SERVICE

PUBLIC UTILITIES
COMMISSION

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FILED

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Historically, Hawai'i produced 8% of its electricity from renewables in 1970 and 7% in 2000. HECO now produces 16% of its electricity from renewables. The increase occurred through three separate actions: (1) changes to the definition of "renewable"; (2) changes to the definition of "percentage"; and (3) a few wind projects.

The 1978 Public Utility Regulatory Policies Act("PURPA")led to the establishment of Schedule Q for power purchases from small qualifying facilities with capacity of 100 kW or less, and is based on the utility's "avoided cost". There are only about 5 existing Schedule Q contracts, and all are located on the Big Island (HELCO). HELCO's total purchased power cost for these Schedule Q contracts is only about \$29,200 based on HELCO's test-year 2006 submittal in Docket No. 05-0315.

Net Energy Metering is primarily intended to promote customer self-generation rather than to sell power to the utilities. As of 2008, the HECO Companies have a total of 810 net energy metered customers providing a total capacity of 6.0 MW. Kauai Island Utility Cooperative (KIUC) has 76 net metered customers as of 2008, with a total combined capacity of 0.97 MW.

The Competitive Bidding process was adopted by the Commission in 2006. To date only HECO has issued a single Competitive Bidding RFP, and this has yet to lead to any PPAs.

The benefit of Feed In Tariffs (FITs) is the establishment of Standard Offer Contracts (SOCs) that would allow rapid implementation of renewable energy systems. The Feed In Tariff Regulatory Proceeding (FIT Docket), opened in December 2008, and may have had more parties (22) than any other docket in the history of the Hawaii Public Utilities Commission.

Through the Commission Order, and the Panel Hearings, eight major issues and more than 40 other issues were identified.

Four very general groupings on intervenors developed.

Minimal Penetration FITs (4): HECO, MECO, HELCO, Consumer Advocate

Medium Penetration FITs (8): DBEDT, Solar Alliance, Life of the Land, Sopogy, Haiku Design & Analysis, Hawaii Renewable Energy Alliance, Hawaii Solar Energy Association, Tawhiri Power

Maximum Penetration FITs (3): Zero Emissions Leasing, Clean Energy Maui, Blue Planet Foundation

Dropped Down in Status (7): Alexander & Baldwin, Sempra Generation, Hawaii Bioenergy, Maui Land & Pineapple, County of Hawaii, City and County of Honolulu, First Wind Hawaii

Discussions were held by 11 parties in the Medium and Maximum Groups. This Intervenor interaction was nearing consensus on some of the issues involved, but needed more time. The discussions are on-going.

The HECO Opening Brief was revealing. HECO assumed that everyone is on the same path to "sustainability." HECO displayed a lack of consistence on the timeframe for the first round of FITs.

Roads / Paths

"At a time of momentous change there is a spectrum of decision making. On one end of the spectrum is a course where the perfect can be the enemy of the good; where the desire to understand and evaluate every possible impact results in stalemate and inaction. On the other end is a course which views a goal as something to be achieved at any cost, a course which regardless of

clarity seeks to move forward unfettered by the constraint of consequence. There is also a middle ground. When confronted with uncertainty, this course seeks to balance the need for progress with consideration of the need to understand the road ahead." (HECO Opening Brief, page 2)

HECO states "the need to understand the road ahead" and yet the Opening Brief never again mentions the road or how to understand it.

Life of the Land supports a road that favors decentralization, competition, awareness of the climate disaster we are in, and cognizance of the need for justice. We are not sure what road HECO is on.

Duration not Consistent

Feed In Tariffs: "To facilitate the rapid adoption of a Hawaii FIT, there should be an initial FIT which will be followed by regular updates. The first FIT update should occur within 2 years of the Commission's approval of the initial FIT to allow sufficient time for studies to be performed and experience to be gained." (Docket 2008-0273, HECO Opening Brief, pages 4-5, October 6, 2008)

Biofuels: "And the effect of the short-duration contract is that it provides an opportunity for HECO to apply commercial, operational, and administrative lessons learned as we implement this first contract. And it also gives us the opportunity to address new industry developments in a comprehensive manner in subsequent contracts." (Docket 2007-0346, Cox, Tr. 38:7-13, October 6, 2008)

"I think our goal is to -- is to take a couple of deliveries under this contract, get some experience in dealing with a market, let the market hopefully grow and -- and go out for an RFP." (Docket 2007-0346, Alm, Tr. 32:20-23, March 9, 2009)

"When you try to do something new and different in a business process, there will be lessons learned. This is one of the reasons the company's chosen to seek

a short-term contract, so that -- so that we can learn now to do that." (Docket 2007-0346, Waller, Tr. 103:5-9)

Advanced Meter Infrastructure: "the 15-year term of the agreement" (Docket 2008-0303, HECO Application, Exhibit 24, page 13, lines 9-10)

Commission Action:

The Commission must decide whether we will have rapid deployment of renewable energy, as advocated by 11 parties including DBEDT and Life of the Land, or whether we will continue to inch forward.

CERTIFICATE OF SERVICE

I hereby certify that I have this date filed and served the original and eight copies of the foregoing **LIFE OF THE LAND'S REPLY BRIEF** in Docket No. 2008-0273, by hand delivery to the Commission at the following address, and electronically to the other parties listed below:

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